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Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Republic of Korea: State's systematic segregation policy and law results in 513 deaths in a 'concentration camp'*

1. As a result of industrialization and urbanization in the Republic of Korea, the society faced a rapid growth of capital which triggered massive migration from the rural areas to the urban areas. Those migrants took up residence the suburbs of the city and constructed a slum area. The government identified those who did not have proper jobs and lived in the slums as 'guttersnipe' and wiped them out under the name of social purification projects. The dignity and liberty of human being was therefore denied and the projects were the policy of the then military government to put the guttersnipes into a welfare facility which was running a *de facto*, 'concentration camp'. The then Ministry of Home Affairs (currently the Ministry of Security and Public Administration) enacted Ordinance no. 410 in 1975 which allowed arbitrary detention of the guttersnipes under the guise of welfare and moral education. However, the result was that mainly the poor were targeted by public officials , deprived of their liberty by being forced to be detained in such facilities where they were exposed to extreme violence, including sexual violence, murder, slavery, human trafficking and being labeled as criminals.

2. The government established squads consisting of the police and public authorities that indiscriminately took those who were sleeping or begging on the streets and those who failed to produce National Identity Cards, when being questioned, to concentration camps located nationwide, which was not in accordance with the law. The society at that time took it for granted under the circumstances where the military took the power after the coup. Although it was clear human trafficking led by the military government under the name of 'for their welfare', the society accepted it without criticism since it saw the guttersnipes as a threat to society. One such example is the case of Hyungje Bok-ji-won (Brother Welfare facility) located in Busan.

3. The government's systematic segregation policy and the existence of concentration camps subsidized by the government budget were accelerated prior to the Asian Games held in 1986 and Seoul Olympic Games in 1988. Former President Chun Doo-hwan, a former military general who took power in a coup set up one of national priorities for 'social purification projects' and segregated and detained the guttersnipes and people with disabilities to the concentration camps in order to show the 'image' of the Republic of Korea to the world. The government segregated the 'national' and 'non-national' and the non-nationals were systematically targeted and put into those camps. They were mainly social vulnerable groups of people such as the poor, homeless and people with disabilities.

4. Mr. Han Jong-sun (39 years old), one of survivors from Hyungje Bok-ji-won started holding a sole protest demanding the truth be examined in front of the National Assembly in 2012. Mr. Han was detained together with his sister in 1984 when he was 9 years old. Mr. Han's father was also detained one year later. The person running the Hyungje Bok-jo-won was arrested and charged with fraud of the government subsidies and enforced slavery against those who were detained in 1987. Afterwards, at around 3,000 detainees at that time were sent to another facility (orphanage or mental treatment facility) and those who had families were sent back to their homes. Mr. Han spent his youth in an orphanage and was not aware of the whereabouts of his family members. It was only in 2008 when Mr. Han was able to find his sister and father who had been in a mental hospital since 1987. Both of Mr. Han's sister and father were exposed to the extreme forms of violence, sexual violence, enforced slavery, inhuman and degrading treatment and they could not endure or overcome such violence while they were in the Hyungje Bok-ji-won. Mr. Han, the survivor from the camp started speaking out the government policy of segregation and running such concentration camps in 2012.

5. The then opposition political party conducted a fact-finding mission. According to its report, in the year of 1986, there were 3,975 detainees in total in Hyungje Bok-ji-won and 3,117 detainees out of total number were taken by the police, 253 detainees out of total number were taken by the local public officials. Thus, 3,370 detainees out of 3,975 (almost 85 percent) were arbitrarily deprived of their liberty by the law enforcement agencies and public officials in the Hyungje Bok-ji-won where detainees were not recognized as human beings. In addition, for the 12 years in which the concentration camps were run from 1975 to 1986, 513 detainees died. This number is an official figure submitted by the Hyungje Bok-ji-won to the political party, when being inquired. However, the real figure of those died in the camp is expected to be much more since many death certificates revealed that the reason of death was not caused by physical attack but by heart failure. One family member recently testified that his brother who had hearing loss were taken and

died in three days since his detention in the camp. It was reported that bruises over his whole body were found but the reason of his death was written as a heart failure in the death certificate.

6. In fact, the misery of such concentration camps was made public by chance. In January 1987, while walking on a mountain, one prosecutor witnessed that a group of people were digging in the mountain under the surveillance of other people not wearing any uniform and secretly initiated an investigation. Meanwhile, it was known to the public after the media reported that one detainee was beaten to death and 35 escaped from the Hyungje Bok-ji-won. At the end, the head of the concentration camp was convicted and received 2 years and 6 months of imprisonment. The charges were fraud of the government subsidies but not illegal detention. The then investigating prosecutor who interviewed with the media recently broadcasted in 2014 testified that he was pressurised to stop further investigation while he was in process of investigation from various government institutions such as, the Blue House (Presidential office), Mayor of Busan city government, the then Minister of Home Affairs and the Intelligence agency. Thus, no indictment was made in accordance with the law due to political pressure. Thus, other charges except fraud against the head of the camp were omitted from the indictment. No proper investigation was carried out. At least it was deemed to be impossible since the government had characteristics of military dictatorships.

7. In relation of the legality of detention of guttersnipes in the camp, the Supreme Court took the view that their detention was legal on the grounds of the ordinance of the Ministry of Home Affairs and the government policy and quashed the criminal liability of the dead of the camp and sent it back to the Daegu High Court (Court of Appeal) in March 1998 (Supreme Court 87Do 2671). In July, the High Court ruled that the Hyungje Bok-ji-won was not recognized as a social welfare facility since it did not get due approval and therefore the guttersnipes were illegally detained and the head of the camp was criminally responsible (88No144). In November, the Supreme Court again adjudicated that the guttersnipes were not illegally detained and the head of the camp was not criminally liable and quashed again and sent it back to the High Court (88Do1580). In March 1989, the High Court ruled that the relevant personnel were criminally responsible for detention (88No593). In July 1989, the Supreme Court quashed again and adjudicated that enforced slavery and running concentration camp were not criminally responsible for depriving the liberty of the guttersnipes (89Do698). It is very unusual that the decision of both appellate court and Supreme Court were in conflict back and forth even though the court system is hierarchical, but the final decision of the Supreme Court clearly opined that the guttersnipes were not deprived of their liberty.

8. Mr. Han, in support of the others, was encouraged to describe what he had experienced in the camp and published a book in 2012 and a committee consisting of civil society organizations was formed and has been asking for the real truth of the Hyungje Bok-ji-won. Since then, around 200 survivors from the camp who were dispersed nationwide have recently been encouraged to start talking about their traumatic experience in the camp and asking for further the restoration of their honour and state responsibility. A special law was drafted and submitted to the National Assembly in March 2014. Meanwhile, the Ministry of Security and Public Administration (formerly Ministry of Home Affairs) expressed its opinion that a Ministry responsible for the special law should be not the Ministry of Security and Public Administration but the Ministry of Health and Welfare. It is deemed to be the will of the Ministry that it would not investigate human rights violations taking place in the Hyungje Bok-ji-won for 12 years in the past but it would deal with survivors from the camp by providing financial subsidies for them.

9. The substantial truth of the case in the matter is that the security and liberty of vulnerable groups of society had been arbitrarily deprived by the police and public officials, not in the court of law but in the Ordinance of Ministry No. 410 in 1975 and they were exposed to torture, sexual violence and other forms of extreme violence in the camp and their freedom was not rested on their own but on the government as well as the head of the camp financially subsidized by the government. However, the concentration camp, Hyungje Bok-ji-won is only one out of many of such existed during that time and nobody knows the number of such camps in nationwide and how those guttersnipes were treated inside the camp. Therefore, it is the duty of the state to investigate human rights violations occurred in the Hyungje Bok-ji-won as a priority and in order for the state to do that, the draft law needs to be adopted at the National Assembly.

10. In addition, it is now time for the government as well as society to rethinks the government policy that accommodates the vulnerable group of society such as the persons with the disabilities in welfare facilities without creating conditions that provide any option to choose based on their self-determination. Forced choice is not a choice and the failure to provide environments that a person can choose on their own will only means that the freedom is not freedom at all.

11. The Asian Legal Resource Centre together with a committee for the real truth of the case of Hyungje Bok-ji-won consisting of civil society organizations call on the government of the Republic of Korea to:

a. Pass the Special Law in relation to the case of Hyungje Bok-ji-won so that a proper and thorough independent investigation carry out;

b. Extend its independent investigation to other facilities in general in nationwide;

c. Restore the honour of those who were arbitrarily detained in such concentration camp based on findings through independent investigation;

d. Make public apologies with Busan City government and take actions to prevent repetition of such atrocities from reoccurring;

e. Provide medical care to those who have been suffering from post traumatic stress disorders;

f. Establish a monument to commemorate those who were dead in such facility and a foundation to support the family who lost their family members and those survivors who have been suffering from trauma;

g. Change its policy and relevant laws and regulations that continue segregating the vulnerable group of society to such facilities, and;

h. Take affirmative measures to respect the freedom of choice of the group and provide necessary conditions where they can make such decision on their free will.

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* Dasan Human Rights Center, Committee against Institutionalising Disabled Persons, A Committee of Past Wrong Doings of MINBYUN-Lawyers for a Democratic Society, Democratic Legal Studies Association, Disability and Human Rights in Action, Solidarity Against Disability Discrimination, South Korean Human Rights NGOs Network, People's Coalition for Media Reform, The April 9 Unification & Peace Foundation, Busan Solidarity Against Disability Discrimination, Sarangbang Group for Human Rights, Catholic Human Rights Committee, Disability Discrimination Act of Solidarity in Korea, Information & Culture Nuri for Disabled Koreans (South Korea), Korean Lawyers for Public Interest and Human Rights, Cultural Action, The Disability Rights Advocacy Center of Korea, Association of Korea Doctors for Health Rights, Local NGOs' Network for welfare and Busan Solidarity for Social Welfare NGO(s) without consultative status, also share the views expressed in this statement.